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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/063,414	04/21/2002	Sharon Flank	EMTNP001-6	9904

21121 7590 04/19/2005  
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EXAMINER
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COBY, FRANTZ

ART UNIT	PAPER NUMBER
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2161

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/063,414

**Applicant(s)**

FLANK ET AL.

**Examiner**

Frantz Coby

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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This is in response to Applicant's response filed on December 05, 2004 in which claims 1-15 are presented for examination.

**Status of Claims**

Claims 1-15 are pending.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Desai et al. U.S. Patent no. 6,072,904 in view of Schultz U.S. Patent no. 5,721,902 and further in view of Voorhees et al. U.S. Patent no. 5,864,845.

As per claim 1, Desai et al. disclose "a method for use with a system storing digital media records and comprising a search engine searching said stored digital media records, the method comprising the steps of: receiving search requests from users; logging the search requests, identifying, using a semantic net hierarchy, a lowest-level term in the hierarchy that subsumes all of the queries in a grouping of search requests', communicating the identified term to a user" by providing a graphical based image retrieval system (See Desai et al. Abstract, Col. 2, lines 22-38., Col. 4, lines 34-60., Col. 5, lines 56-63).

It is noted, however, Desai et al. did not specifically detail the aspect of "expanding the search requests" as recited in the instant claims 1, 4, 7 and 10. On the other hand, Schultz achieved the aforementioned limitations by providing an expansion of query terms using part of speech tagging (See Schultz Title, Abstract).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify image retrieval system of Desai et al. by incorporating, in the search mechanism of Desai et al. the query expansion method of Schultz. The motivation being to provide a searching/retrieval system which can query a library or database and identify not only text documents, but also multi-media files stores on the library of database that are relevant to the query (See Schultz Col. 2, lines 57-61).

It is further noted, that neither Desai nor Schultz specifically detail the aspects of "applying a statistical clustering algorithm, thereby grouping similar search requests together" as recited in the recited claim. Voorhees et al., however, disclose the aforementioned claimed features by providing a system for World Wide Web searches utilizing a multiple search engine query clustering strategy (See Voorhees et al. Title; Abstract; Col. 2, line 17-Col. 4, line 50).

It would have been obvious to one of ordinary skill in the art at the time of the invention to further modified the combination to Desai and Shultz above by incorporating the mechanism for query clustering disclose by Voorhees into the combined searching/retrieval system of Desai/Schultz. The motivation being to provide a search retrieval system for combining the results of separate search engines into a single integrated ranked list of pages in response to a query. Thereby, improved the effectiveness of a single text retrieval system despite the collection being physically separated (See Voorhees Col. 1, line 60-Col. 2, line 22).

As per claims 4, 7 and 10, all the limitations of these claims have been noted in the rejection of claim 1. They are therefore rejected as set forth above.

As per claims 2-3, most of the limitations of these claims have been noted in the rejection of claim 1. Applicant's attention is directed to the rejection of claim 1 above. In addition, Schultz discloses the claimed features of "wherein the expanding is performed using a thesaurus" wherein the expanding is performed using a semantic net

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comprising synonyms and super-terms" (See Schultz Figures 4A-4C) especially "Thesaurus" and "Dictionary".

As per claims 5-6, most of the limitations of these claims have been noted in the rejection of claim 4. Applicant's attention is directed to the rejection of claim 4 above. In addition, Schultz discloses the claimed features of "wherein the expanding is performed using a thesaurus; "wherein the expanding is performed using a semantic net comprising synonyms and super-terms" (See Schultz Figures 4A-4C) especially "Thesaurus" and "Dictionary".

As per claims 8-9, most of the limitations of these claims have been noted in the rejection of claim 7. Applicant's attention is directed to the rejection of claim 7 above. In addition, Schultz discloses the claimed features of "wherein the expanding is performed using a thesaurus"; "wherein the expanding is performed using a semantic net comprising synonyms and super-terms" (See Schultz Figures 4A-4C) especially "Thesaurus" and "Dictionary".

As per claims 11-12, most of the limitations of these claims have been noted in the rejection of claim 10. Applicant's attention is directed to the rejection of claim 10 above. In addition, Schultz discloses the claimed features of "wherein the expanding is performed using a thesaurus; "wherein the expanding is performed using a semantic

net comprising synonyms and super-terms" (See Schultz Figures 4A-4C) especially "Thesaurus" and "Dictionary".

Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Desai et al. U.S. Patent no. 6,072,904 in view of Schultz U.S. Patent no. 5,721,902 and Voorhees et al. U.S. Patent 5,864,845 and further in view of Wiser et al. U.S. Patent no. 6,385,596.

As per claims 13-15, most of the limitations of these claims have been noted in the rejection of claim 10 above. Applicant's attention is directed to the rejection of claim 10.

It is noted, however, neither Desai et al. nor Schultz disclose the aspects of "wherein a user expressing interest in a selected digital media record comprises the user placing the selected digital media record into an online shopping cad"; "wherein a user expressing interest in a selected digital media record comprises the user purchasing rights to use the selected digital media record; "wherein a user expressing interest in a selected digital media record comprises the user placing the selected digital media record into an online projects folder or other work space". On the other hand, Wiser achieved the aforementioned claimed features by providing a secure online music distribution system including a media licensing mechanism as well as a payment mechanism to allow online purchasing of digital media (See Wiser et al. Figures 6A-6B). It would have been obvious to one of ordinary skill in the art at the time of the invention

to further modify the combination of Desai et al. and Schultz by further incorporating the online music distribution teachings of Wiser et al. because that would have enhanced the versatility of Desai's et al. image retrieval method by allowing it to be applied in an electronic commerce environment.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz Coby whose telephone number is 571 272-4017. The examiner can normally be reached on Monday-Saturday 3:00 P.M-11: 30P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 571 272 4023. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Frantz Coby  
Primary Examiner  
Art Unit 2161

April 16, 2005